

Comptroller of the Currency, Treasury

§ 13.5

and 12.5 through electronic communications. Where a customer has a facsimile machine, a national bank may fulfill its notification delivery requirement by sending the notification by facsimile transmission. Similarly, a bank may satisfy the notification delivery requirement by other electronic communications when:

- (1) The parties agree to use electronic instead of hard-copy notifications;
 - (2) The parties have the ability to print or download the notification;
 - (3) The recipient affirms or rejects the trade through electronic notification;
 - (4) The system cannot automatically delete the electronic notification; and
 - (5) Both parties have the capacity to receive electronic messages.
- (b) The OCC would consider the permissibility of other situations using electronic notifications on a case-by-case basis.

PART 13—GOVERNMENT SECURITIES SALES PRACTICES

Sec.

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INTERPRETATIONS

13.100 Obligations concerning institutional customers.

AUTHORITY: 12 U.S.C. 1 *et seq.*, and 93a; 15 U.S.C. 78o-5.

SOURCE: 62 FR 13283, Mar. 19, 1997, unless otherwise noted.

§ 13.1 Scope.

This part applies to national banks that have filed notice as, or are required to file notice as, government securities brokers or dealers pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

§ 13.2 Definitions.

(a) *Bank that is a government securities broker or dealer* means a national bank that has filed notice, or is required to file notice, as a government securities broker or dealer pursuant to section

15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

(b) *Customer* does not include a broker or dealer or a government securities broker or dealer.

(c) *Government security* has the same meaning as this term has in section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)).

(d) *Non-institutional customer* means any customer other than:

- (1) A bank, savings association, insurance company, or registered investment company;
- (2) An investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); or
- (3) Any entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least \$50 million.

§ 13.3 Business conduct.

A bank that is a government securities broker or dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business as a government securities broker or dealer.

§ 13.4 Recommendations to customers.

In recommending to a customer the purchase, sale or exchange of a government security, a bank that is a government securities broker or dealer shall have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to the customer's other security holdings and as to the customer's financial situation and needs.

§ 13.5 Customer information.

Prior to the execution of a transaction recommended to a non-institutional customer, a bank that is a government securities broker or dealer shall make reasonable efforts to obtain information concerning:

- (a) The customer's financial status;
- (b) The customer's tax status;
- (c) The customer's investment objectives; and
- (d) Such other information used or considered to be reasonable by the